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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,565	09/12/2003	Howard Rhodes	M4065.0570/P570-A	5308
24998	7590	05/22/2006	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP			ARENA, ANDREW OWENS	
2101 L Street, NW			ART UNIT	
Washington, DC 20037			PAPER NUMBER	
			2811	

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/660,565

Applicant(s)

RHODES ET AL.

Examiner

Andrew O. Arena

Art Unit

2811

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

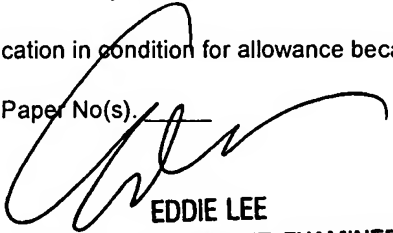
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: n/a.
Claim(s) objected to: n/a.
Claim(s) rejected: 90 and 93-141.
Claim(s) withdrawn from consideration: n/a.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____.
13. ☐ Other: _____.


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SUPERVISORY PATENT EXAMINER
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Continuation of 11. does NOT place the application in condition for allowance because:

Examiner first notes that applicants amendments to the independent claims (90, 108, and 130) simply change the claims back to exactly the claims previously presented 04/25/2005 and rejected in the office action of 11/14/2005. At least for this reason, applicant's claims fail to patenably define over the prior art.

Applicant's arguments filed 05/05/2006 have been fully considered but they are not persuasive.

Applicant's argument that Rhodes does not disclose, teach, or suggest "the entire extent of said charge storage capacitor overlies said field oxide region" is not persuasive. Examiner reiterates (presented in office actions of 11/14/2005 and 03/22/2006) that in Rhodes (Fig 5) no extent of said charge storage capacitor (162) lies under said field oxide region (115).

Applicant's argument that Rhodes does not disclose, teach, or suggest "forming a direct contact between said first doped region and said charge storage capacitor" is not persuasive. Examiner reiterates (presented in office actions of 11/14/2005 and 03/22/2006) that in Rhodes (Fig 5) a direct connection (150) is formed between said first doped region (155) and said charge storage capacitor (162).

In response to applicant's arguments against the references individually (Rhodes is also silent about "patterning...to form a storage capacitor" and Rhodes is also silent about "connecting an electrode of a second charge storage capacitor..."), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's argument that Rhodes is also silent about "forming a photodiode in a doped layer" is moot since Han has been exclusively relied upon as a teaching for this limitation.

Applicant's argument that Han fails to disclose, teach, or suggest "the entire extent of said charge storage capacitor overlies said field oxide region" is not persuasive. Examiner reiterates (presented in office actions of 11/14/2005 and 03/22/2006) that in Han (Fig 3) no extent of said charge storage capacitor (230) lies under said field oxide region (208).

Applicant's argument that "a person of ordinary skill in the art would not have been motivated to combine Rhodes with Han" is not persuasive. Examiner reiterates (presented in office action of 03/22/2006) that Han teaches an improved method of forming a capacitor in a CMOS imager, and provides the motivation for modification: at least for reducing the steps of manufacture [0032].

In response to applicant's arguments against the references individually ("Rhodes fails to disclose, teach, or suggest all limitations of independent claim 137" and "Lauxterman is silent about any of the limitations of claim 137"), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's amendment to dependent claims 124 and 125 fail to overcome the rejection under 35 USC 112, first paragraph. It is unclear how said photosensor can operate to detect light when the charge storage capacitor "overlies an active area of a pixel containing said photosensor."